

1 HANSON BRIDGETT LLP
KURT A. FRANKLIN, SBN 172715
2 kfranklin@hansonbridgett.com
SAMANTHA WOLFF, SBN 240280
3 swolff@hansonbridgett.com
JENNIFER ANIKO FOLDVARY, SBN 292216
4 jfoldvary@hansonbridgett.com
425 Market Street, 26th Floor
5 San Francisco, California 94105
Telephone: (415) 777-3200
6 Facsimile: (415) 541-9366

7 HANSON BRIDGETT LLP
TYSON M. SHOWER, SBN 190375
8 tshower@hansonbridgett.com
LANDON D. BAILEY, SBN 240236
9 lbailey@hansonbridgett.com
500 Capitol Mall, Suite 1500
10 Sacramento, California 95814
Telephone: (916) 442-3333
11 Facsimile: (916) 442-2348

12 OTTEN LAW, PC
VICTOR OTTEN, SBN 165800
13 vic@ottenlawpc.com
KAVITA TEKCHANDANI, SBN 234873
14 kavita@ottenlawpc.com
3620 Pacific Coast Highway, #100
15 Torrance, California 90505
Telephone: (310) 378-8533
16 Facsimile: (310) 347-4225

17 Attorneys for Plaintiffs
CORY SPENCER, DIANA MILENA
18 REED, and COASTAL PROTECTION
RANGERS, INC.
19

20 **UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
22

23 CORY SPENCER, an individual;
24 DIANA MILENA REED, an
individual; and COASTAL
25 PROTECTION RANGERS, INC., a
26 California non-profit public benefit
corporation,
27

28 Plaintiffs.

CASE NO. 2:16-cv-02129-SJO (RAOx)

**DECLARATION OF VICTOR OTTEN
RE: DISCOVERY TELEPHONE
CONFERENCE REQUESTED BY
DEFENDANT BLAKEMAN**

1
2 v.

3 LUNADA BAY BOYS; THE
4 INDIVIDUAL MEMBERS OF THE
5 LUNADA BAY BOYS, including but
6 not limited to SANG LEE, BRANT
7 BLAKEMAN, ALAN JOHNSTON
8 AKA JALIAN JOHNSTON,
9 MICHAEL RAE PAPAYANS,
10 ANGELO FERRARA, FRANK
11 FERRARA, CHARLIE FERRARA,
12 and N. F.; CITY OF PALOS
13 VERDES ESTATES; CHIEF OF
14 POLICE JEFF KEPLEY, in his
15 representative capacity; and DOES
16 1-10,

17 Defendants.

18
19 I, VICTOR OTTEN, declare as follows:

20 1. I am attorney licensed to practice under the laws of the State of
21 California and am duly admitted to practice before this court. I am an
22 attorney of record for Plaintiffs Cory Spencer, Diana Milena Reed, and the
23 Coastal Protection Rangers, Inc. I have personal knowledge of the facts set
24 forth herein, and if called as a witness, I could and would competently testify
25 to the matters stated herein.

26 2. This is a hearing that probably could have been avoided. It
27 certainly could have waited until next week; as demonstrated in Plaintiffs'
28 attempt to meet and confer, I was set to start a jury trial, Mr. Blakeman has
not been prejudiced and we have tried to be accommodating. Attempting to
avoid another court hearing, early this week I wrote to Mr. Blakeman's
counsel:

1 Mr. Worgul,

2 I have reviewed the order and agree Plaintiffs **agree**
 3 to address the deficiencies in the responses. We will
 4 serve the revised discovery responses **before**
 5 Friday. **You can certainly set a date/time with the**
 6 **Magistrate so that it is available in the event that**
 7 **you have any problems with our revised**
 8 **responses**, and also because we would like to
 9 address Mr. Blakeman's response to Plaintiffs'
 10 interrogatory requesting his telephone number
 11 (Samantha emailed you about this yesterday). **I am**
 12 **starting a jury trial tomorrow** in Torrance so my
 13 availability for a for a telephonic hearing on Friday at
 14 2:00 PM is questionable. Should my case not
 15 proceed to trial, that time will work but I am told that
 16 it is starting. **In that case, anytime next week**
 17 **during the lunch hours of 12:00-1:30.**

18 Thanks,

19 Vic

20 (emphasis added)

21 3. Attached as Exhibit "1" to this declaration are the various emails
 22 detailing the meet and confers regarding the discovery issues should the
 23 Court want to read them. The major issues are set forth below.

24 4. Witness information. The attorneys for Mr. Blakeman argue that
 25 the Court's order, among other things, requires the following: "Plaintiffs are
 26 ordered to identify witnesses in response to Interrogatory Numbers 1
 27 through 12. For each interrogatory, Plaintiffs shall identify the responsive
 28 witnesses by name. For each witness, Plaintiffs shall specify whether that

1 witness is represented by Plaintiffs' counsel, or, if Plaintiffs know, by other
2 counsel. For each witness, Plaintiffs shall provide contact information for that
3 witness or state unambiguously that Plaintiffs do not have contact
4 information for that witness."

5 The interrogatory responses clearly identified which witnesses were
6 represented by Hanson Bridgett LLP and Otten Law PC: Chris Taloa, Chris
7 Claypool, Ken Claypool, Geoff Hagins, Jordan Wright, Jason Gersch and
8 John MacHarg. All have agreed to let our offices accept service of process
9 on their behalf, as we have advised counsel for Mr. Blakeman.

10 5. In reviewing the responses that we provided as part of the meet
11 and confer process, there were additional witnesses who plaintiffs identified
12 but did not provide contact information for. This was an oversight on my part
13 which has now been remedied. As we obtained additional information since
14 the original responses were served, we included that information in the
15 supplemental responses even though not required by the Court's Order.
16 This information consisted primarily of names of people included in email or
17 phone communications of other defendants that surf Lunada Bay that was
18 obtained in discovery from other defendants.

19 6. Mr. Worgul also raised problems with Plaintiffs' responses to
20 Requests for Production of Documents. As mentioned in my email from
21 Tuesday, I agreed with many of his issues and agreed to address them
22 immediately. The main issue: "plaintiffs shall provide bates number ranges
23 or otherwise identify with particularity the documents that are responsive to
24 that request, including any documents that may have already been produced
25 to Defendant." I believe that this issue has been resolved except for
26 identifying which of Defendant Alan Johnston's phone records support
27 Plaintiffs' responses. However, Plaintiffs are unable to provide the specific
28 page numbers of relevant phone records because Mr. Blakeman's attorneys

1 are refusing to turn over their client's cell phone number, claiming it is
2 privileged under the California Constitution. While Plaintiffs have strong
3 reason to believe that Defendants Blakeman and Johnston have been in
4 contact, without Defendant Blakeman's cell phone number Plaintiffs are
5 unable to provide the specific entries in Defendant Johnston's phone records
6 that reference Defendant Blakeman.¹ Accordingly, Plaintiffs cannot comply
7 with Defendant Blakeman's request unless and until he provides his cell
8 phone number. Attached as Exhibit "2" to this declaration are the various
9 emails detailing the attempt to meet and confer over the issue of Mr.
10 Blakeman's phone number.

11 7. So there is no doubt that Plaintiffs' responses are now complete,
12 attached as Exhibits "3" and "4", are Plaintiffs' Supplemental Responses to
13 Interrogatories and Request for Production of Documents, which I served
14 electronically late Thursday, March 2, 2017.

15 8. Finally, Plaintiffs have now served Supplemental Disclosures
16 which are attached as Exhibit "5".

17 I declare under penalty of perjury under the laws of the State of
18 California that the foregoing is true and correct. Executed March 2, 2017, in
19 Torrance, California.

20
21
22 _____
23 ¹ Mr. Blakeman was asked at his deposition to state his cell phone number
24 and he indicated that he had difficulty remembering it. He provided what he
25 believed to be his number, but was unsure. Notably, his attorneys did not
26 object to this question. Mr. Blakeman's phone number also appears in co-
27 Defendant Sang Lee's privilege log, though his number that appears in Mr.
28 Lee's privilege log differs by one digit from the number Mr. Blakeman
provided at his deposition. For this reason, Plaintiffs requested that Mr.
Blakeman provide his cell phone number, but to no avail.

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/s/ Victor Otten
Victor Otten